IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2479 OF 2004

Union of India & Ors. ...Petitioners.

Versus

Raju R. Pawar ...Respondent.

....

Ms.S.Humane with Mr.S.S.Pakale i/b. T.C.Kaushik for the Petitioners.
None for the Respondent.

....

CORAM : **F.I.REBELLO AND SMT.V.K.TAHILRAMANI,JJ.**

DATED : **JUNE 20, 2006.**

P.C.:

. The Union of India has approached this Court challenging the order dated 14th June, 2002 passed in O.A. No.296 of 1998 by the Central Administrative Tribunal, Mumbai Bench. The Respondent was original applicant before the Tribunal who has moved before the Tribunal challenging the order dated 9.5.1997 by which penalty of stopping of increment of pay without cumulative effect was imposed on the applicant as well as reduced punishment of withholding of two

increments of pay without cumulative effect by appellate order dated 27.11.1997. After considering the various contentions, the learned Tribunal found that the enquiry based on which punishment was imposed on the petitioner was in violation of the principles of natural justice and fair play, inasmuch as, a report and necessary documents, which respondent had sought, not made available to the respondent. The Tribunal thereafter proceeded to consider as to whether the charge amounts to mis-conduct. The learned Tribunal on consideration of the material before it, found that mere negligence in performance of duties and lapse in performance of duties or error of judgment in evaluating the situation, would not constitute misconduct. On the fact before it, the Tribunal found that B/E was withheld for only six days and that had caused no loss either to the customs or to the importer and in these circumstances quashed and set aside both the orders dated 26.11.1987 and 7.5.1997. It was within the jurisdiction of the tribunal to exercise its jurisdiction. The tribunal has

recorded finding of fact that charge did not amount to misconduct. We do not think that the order suffers from any error apparent on record. That view taken is a view possible of being taken in qua. In the light of that, no interference is called for. Petition is dismissed.

[F.I.REBELLO,J.]

[SMT.V.K.TAHILRAMANI,J.]